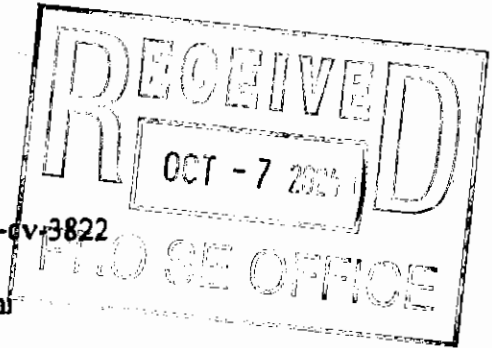


MEMO ENDORSED**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK****COMMODITY FUTURES TRADING
COMMISSION,****Plaintiff,****v.****EDDY ALEXANDRE and
EMINIFX, INC.,****Defendants.**

Case No.: 22-cv-3822

Judge Caproni



USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 10/21/2024

**MOTION TO OPPOSE THE ADOPTION OF THE SECOND QUARTER 2024
OR NINTH STATUS REPORT FROM THE EMINIFX RECEIVERSHIP FOR DEFECTS
AND MOTION TO VACATE THE RELATED APPROVAL OF THE APPLICATION FOR PAYMENT**

NOW COMES, Eddy Alexandre, ("Mr. Alexandre", the "Defendant"), pro se, hereby submits this motion to the court in response to the Receiver's ninth Status Report and Application for payment; to oppose the adoption of the Second Quarter Status Report(2024) of the Receiver; to deny his application for payment for failure to honor the due process clause by submitting all the invoices for billing under "SEAL" and failure to provide required financial data for fair chance of revision and opposition in dealing with conflict of interests, falsification of business records, and the deprivation of property without regards to property interests of the Defendants (Mr. Alexandre, and EminiFX) and investors' FUNDS.

Mr. Alexandre received the service of the status reports about a month after the judge approved and filed it with the court. The Receiver and court's process service came around September 3-5, but the presiding judge had already approved the application for approval of the expenses since August 16, 2024 for an application filed on August 2, 2024. See. Ex. 1 attached (mailstamps). Dkts. No. 371, 383.

The assertions in the Ninth Status Reports were developed without the benefit of adversarial litigation and therefore, as the Receiver acknowledged in the submission, "illustrative" "NON-GAAP" compliant, subject to revision over time. As explained below, Mr. Alexandre has supported the Receiver's efforts to preserve the status quo pending litigation in this instant action and the related criminal prosecution in United States v. Alexandre, No. 22 Cr. 326 (JPC). Mr. Alexandre looks forward to an opportunity to

be heard on the merits in this case, as demonstrated with his Motion To Dismiss before this Court, including with respect to deficiencies in the investigation or lack of thereof that resulted in significant restraints and harm on assets belonging to EminiFX, EminiFX members while both of these cases were pending and up until now that this civil action is still pending.

GENERAL STATEMENTS

1- EminiFX is a modern "Investment Club" taking advantage of the Digital Assets Portfolios combining Finance and Technology (FINTECH) to promote "Digital Packages" as a shared profit vehicle for the average investor not able to participate in more traditional ventures.

2- EminiFX is NOT a Ponzi-scheme, and was never one. EminiFX is a full-fledge fully operational modern Digital Asset investment club company.

3- EminiFx is NOT a "multi-level investment" company. EminiFX offered a multi-level REWARDS structure to the investors. NO member/investor was required to sponsor anyone to benefit from the digital packages. The EminiFX Digital package is all encompassing and does not need anything else other than the digital package investment ALONE. The Airlines offer the typical rewards plans to sponsor family members and earn convertible points. The Banks offer the like structure if you sponsor "anyone" as a new client for the bank. Each business offers their own multi-level 'rewards'.

4- The EminiFX Estate is made of investors' funds, EminiFX assets, Mr. Alexandre's Assets, and proceeds from the high yields interests from the investors' funds as required by regulations in compliance with the Statutes.

5- The entire EminiFX Estate is the basis for Mr. Alexandre's Restitution payment to be RETURNED to the members of EminiFX, thus belonging to the investors of EMINIFX, AND whatever is left unpaid is for Mr. Alexandre to pay back to the Government, and may or may never find its way to the investors depending on how much the Receiver and his teams, and his Law firm associates eat from the funds with that level of quarterly billing. All that for Mr. Alexandre to repay for the rest of his life.

6- How it happened? On the dreaded morning of May 12, 2022, the CFTC with the assistance of the temporary Receiver-hired, walked in, BROKE everything, took control of EminiFX assets and

operations, armed with the the Judge Temporary Restraining Order (TRO) obtained via an ex-parte (one-way) proceeding, and started dismantling everything to prove that there is something wrong to be fixed by the savior, the Receiver, who broke everything. What we have is a destroyed company, all assets captured under unsupervised control of the one person who did not work hard, nor contributed sweats equity in building the organization. All assets were liquidated, causing a significant loss of \$30 million dollars in the Cryptocurrency portfolio from \$120 million down to \$90 million at the conclusion of the liquidation trades to convert into US Dollars at the worst possible time in the history of cryptocurrency liquidation. And this is not withstanding the destruction of the Real Estate portfolio After-Repair-Value (ARV) also liquidated at below 30% of the already low acquisition costs which costs EminiFX around 40-60% below ARV (without logic.) 27 months later, Mr. Alexandre, EminiFX and the Investors are still trying to find out what was the emergency used as the basis for the rush "wash sale," knowing that any panic sale in Real Estate will cause massive losses. Yet, the Receiver took pride in publishing his destruction and spending.

7- The Receiver came in with a baggage, the law firm who hired him to work for them, and he will in turn supervise that same law firm by paying them million of dollars that he will swear is a good thing for us. Does that sound like conflict of interests? Yes.

8- The Receiver from day one in his first newly found executive power, seized the salary of the CEO, and the CFO not a party to this instant action, fired everyone; and said he expected them to file a claim through the claim process for their salaries to be returned to them or not. In an arbitrary action to go around and seize without due process, ex-parte (one-sided) with the Judge allowing him a free reign, he is free to arbitrarily be both the judge and executioner with the assurance to have his actions rubber-stamped by the presiding Judge.

9- The Receiver, after 27 months, is dragging his feet not sharing WHEN he will complete the distribution plan. Each filing says about at least 2 more semesters to figure out the verification process again and start on implementing a distribution plan. He has no ideas, nor intentions to disburse that funds anytime soon because he needs it to pay his professionals. If he pays out the funds, HOW will he get paid and find money to pay his team of "professionals?" An important question to raise. Sounds like quite simple arithmetic. Hence, He will not pay out until he has

completed his maximum withdrawals from the funds.

10- The Receiver has been submitting the same reports before, sometimes under "partial" label to avoid the scrutiny. And, after 27 months, persists in providing "illustrative" accounting reports to a real case with lifetime consequences far from being illustrative in substance and in consequences. This receiver must be terminated for cause, replaced by a capable administrator who holds dear to regulations and standards when it comes to CFTC-led civil enforcement actions as regulated by the Code of Federal Regulations (C.F.R.) 17, et seq. See Ex. 2 (Illustrative reports).

11- With extensive resources, and the number of professionals of all backgrounds working for the receivership, to persist in producing these "illustrative" reports and failing to meet the standards is abhorrent and devoid of any desire to do good by the parties involved. What's worst is that the Receiver submitted the "invoices under seal" to support the exhibits and Affidavits in the following table so the parties cannot see what's going on, the judge GRANTED the application:

Second Quarter 2024 Application Submission Summary Table

DOCUMENTS	UNDER SEAL	DECL./AFFIDAVIT("Aff")	AMOUNT
Report.....	Exhibit 1-1.....	Ex.1 Mr. Castleman-Aff.	\$119,082.50
29 pages.....	Exhibit 2-1.....	Ex.2 Otterbourg-Aff.	\$927,154.93
Application.....	Exhibit 3-1.....	Ex.3 JS HELD-Aff.	\$306,356.50.....+\$14,127.20
7 pages.....	Exhibit 4-1.....	Ex.4 Deloitte Tax-Aff.	\$15,880.00.....+\$794.00
	Exhibit 5-1.....	Ex.5 Crowe-Aff.	\$871.00
	Exhibit 6-1.....	Ex.6 Stretto-Aff.	\$153,766.50.....+\$5,376.83
As "approved" by the CFTC: (-\$40,000 less) fees than the first quarter*)			*Total \$1,522,980.99.....+\$20,298.03 exp.

KEY POINTS: The EminiFX estate earned \$1.2 million high-yield interests for the 2nd quarter 2024
 The EminiFX estate paid \$1.6 million in "professionals fees."
 The receivers' billing for this Quarter is \$40,000 less the 1s Quarter 2024.
 (enough for approval). (A recurring 1.5 million dollars every quarter.)

[To reach that goal, Otterbourg law offices, in addition to the 15% public discount they are giving, decided to give an additional \$82,103 discount to massage the numbers to reach the \$40,000 less than the previous Quarter because they are aware now that Mr. Alexandre and the investors are watching.]

*** (The \$1.2 million high-yield interests x 9 reports= +/- \$10.8 million OWED to investors.)

BACKGROUND

In an unprecedented move, breaking with its own practice, regulations, and its own policy of the past 33 years, the CFTC launched a joint-criminal investigation with the US Attorney Office ("USAO") and commenced a separate simultaneous ex-parte civil action "under seal" against the defendants, Mr. Alexandre, then CEO, founder of EminiFX; and against EminiFX, hiring a temporary receiver, Mr. David Castleman, submitting his name to the court in the unsealed complaint on May 11, 2022 for approval as EminiFX receiver in support of the CFTC enforcement in this instant action. Among the chief charges presented in the Complaint filed by the CFTC to Judge Caproni to show cause were grave imminent danger if they do not get a complete Statutory Restraining Order ("SRO") against Mr. Alexandre due to his actions of taking the members funds and transfer them in hidden places, risk of imminent flight, fraud and massive losses. The CFTC brought along their receiver for ratification by the court to find the "proofs" for their preposterous fraud allegations.

BUSINESS INVOICES UNDER SEAL

*[\$1,522,980.99 (1.52 million dollars USD filed under seal.)]

"The receiver carried a cloud of impropriety and a litany of conflicts of interests. Imagine the receiver asking the stakeholders to trust him to pay his boss \$927,154.93 (\$2.8 million annualized at that rate), and paying himself an extra \$119,082.50 directly; because he said he supervised his boss' work, who in turn will pay him his salary, and the same receiver saying that this is a good invoice because his boss decided, [this time around on his own accord, to give EminiFX and the investors a discounted rate for the complex work performed, and according to the receiver's affidavit, "notwithstanding" the importance of the work performed for the complex job he is doing, his boss had a good heart to give the investors an extra discount of \$82,103."

This sounds so good, you will agree that it sounds too good to be true. There is catch to it. Through it all the receiver is not able nor willing to show the work done to protect the integrity of the amazing work performed at the discounted rate. But, you just have to trust his words on that. This is beyond wrong and also vexing. This action is leading us in uncharted territory with front row seats to see the ugliness of the abuse of discretion and unbalanced authority. There is a significant difference between filing a document "redacted of privately identifiable information [PII]" and a filing done under seal kept away from the public eye to avoid scrutiny. This filing under seal is to avoid scrutiny. This added cloud of secrecy is worrisome and violates the rules of decency, and the constitutional rights of the interested parties, and more specifically Mr. Alexandre and the investors. See Ex. 1 ("under seal").

Ever since hired by the CFTC, and subsequently submitted to the S.D.N.Y for approval as a temporary receiver on May 11, 2022, Mr. David Castleman, the CFTC-Court-Appointed Receiver did the "expected" job for the CFTC: "dismantle everything and shut down operations" for EminiFX. From day one, as he reported in his status reports, he "fired" everyone, seized control of operations, effectively shut down EminiFX operations to have complete control over EminiFX systems and also operations, while installing a complete blackout into the operations of EminiFX. The Receiver immediately started to advertise he found NO operations, that EminiFX WAS just a scam operation. Weeks later, rushed back to the court asking for extensive permissions to hire over 60+ contractors, herein referenced as "the professionals" in his Status Reports for the purpose of expenses and billing [because he pretended that he magically found a complex Real Estate portfolio, and complex operation.] To the extent that he magically found out that EminiFX owned a complex Real Estate portfolio and that the CFTC failed to properly investigate, failed to take a look at the EminiFX operations BEFORE shutting it down based upon uninvestigated allegations, this should be labeled "the crime of the century." If Mr Alexandre agrees with the Receiver that the CFTC and the receiver did not know, how did that happen?

How could a federal agency go to such length and cause so much damages without a comprehensive investigation? Knowing that they have a direct backdoor agreement with the USAO pertaining to document exchange AND joint-enforcement action; and that they provided over 1.1 million pages of statements to the USAO as evidence, when in fact they did not investigate nor knew what was crucial to the investigation, how did we get there? Greed and "Regulation through Enforcement" is the only plausible answer. This is why the CFTC needed a Receiver that can make these assertions unchallenged that they can in turn use as "evidence" in these proceedings.

This was an act carefully planned and beautifully executed to start destroying the property and assets of the investors and of EminiFX, and place the blame on the CEO of EminiFX, inter alia, Mr. Alexandre. The massive loss would cause the investors to rise against Defendant, and the truth will never come out. In fact, the Receiver fired the very professionals hired by renowned talent agencies in New York that

could give him access to ALL the data for an average of \$65/hour at no extra cost to the investors. Yet, that would not be good because he would not be able to hire his group of friends for \$400-\$1000/hr, now all offering "discounted rates" to EminiFX at around \$300-\$995. I never experienced such a well elaborated conspiracy to deprive investors of their hard earned money under the disguise of saving them from a doomsday scenario.

God only knows what's going on within that receivership structure, filing billing under SEAL to hide the true facts of their actions. What we know for sure, is that the billing started coming soon after, and the investors had to intervene massively to protest against the wild appetite of Mr. Castleman resolved in spending as much as possible. The Honorable Judge Caproni attempted to explain to the investors why she believed the billing was reasonable.

HIGH YIELD INTERESTS BEARING ACCOUNT

The CFTC is obligated when commencing a civil enforcement action to place the seized-money into an interest bearing account as mandated. This is to benefit the investors and not to benefit any Receiver and his friends to come eat it all, in addition to the funds that are lost in the process of taking over and as the result of poor decision-making from this Receiver and the CFTC combined. Although the investors actively attempted to steer the Receiver in the right direction on how to manage their funds, his lack of experience in the Crypto world and unfamiliarity with the digital assets space, the Receiver destroyed the Main Crypto Portfolio from the \$107 million transferred to him down to \$90 million dollars after transfer. A staggering loss of 17 million dollars as direct results of a massive selloff by the Receiver, ignoring the significant objection of Defendant through counsel, and the subsequent campaign by a thousand active members from the EminiFX investors.

The Defendant believes this amounts to gross negligence by the Receiver causing the loss of millions forever for the CEO to RESTITUTE. As if this was not enough, to add insult to injury, the Receiver promoted the TRANSFER from the Crypto portfolio to the US Bank accounts as PROCEEDS to the EminiFX Estate "saying" he was able to add \$90 millions dollars for the EminiFX investors. I believe that the Receiver is taking EminiFX for granted, assuming that they are all ignorant of what is theirs and what's not. According to the Merriam-Webster Thesaurus, proceeds means "an increase usually measured in money that comes from labor, business, or property--see

INCOME. or "the amount of money left when expenses are subtracted from the total amount received--See PROFIT." In both cases, the total amount received was \$107 millions minus the amount left \$90 million=\$17 millions loss(NOT a profit.) This is a the result of the trades from BTC to USD at the wrong time from EMINIFX ACCOUNT TO EMINIFX ACCOUNT. There are NO proceeds, this is a massive LOSS from Mr. Castleman's BTC-USD trades.

This is exactly why the Receiver refuses to produce GAAP compliant accounting reports. This is "illustrative", "creative" accounting to suit the needs of the CFTC hiding the massive negative impact of the CFTC enforcement action. This has gone unchallenged for far too long and must come to a stop. Mr. Alexandre will no longer standby in the hope that the Receiver will one day correct the records, as his own attorney, he will from now on take advantage of the adversarial litigation process to keep the Receiver honest. This is an outrageous loss amount for Mr. Alexandre to payback for the rest of his natural life, depriving him of liberty and property without due process rights. One may see the significance in challenging these omissions, misleading reports and assertions. The very same charges filed against Mr. Alexandre.

The status report omits the material fact that Mr. Alexandre played an active role in efforts to "preserve assets," including Crypto from Coinpayments Exchange when the receiver informed him that he was experiencing difficulty obtaining information from Coinpayments and requested Mr. Alexandre's assistance. On June 13, 2022, Mr. Alexandre, through counsel, executed a written consent in support of the Receiver's request to Coinpayments for "all historical records" and "the TRANSFER of assets as soon as possible." That same day, Coinpayments provided the "95-megabyte text file" described in A Status report Dkt. 71 at 16. Coinpayments's disclosures demonstrated that (1) the EminiFX investment account at issue was registered in the of EMINIFX INC. by Mr. Alexandre, using, inter alia, his home address, date of birth (DOB), and New York State (NYS) driver's license, and (2) the account contained the USD equivalent of \$107 million in cryptocurrency as of May 13, 2022, i.e., two days after the CFTC elected to obtain an ex-parte Statutory Restraining Order (SRO) that resulted in the freezing of the account. That EminiFX investment account was held in an account that EminiFX opened "transparently", maintained in plain sight, and referenced during at least one of the "investor's call[s]" described the previous Status Report Dkt. 71 at 5, 23, 25). Notwithstanding EminiFX BTC holdings at Coinpayments,

the CFTC claimed in a May 12, 2022 press release that EminiFX used "only approximately \$9 million of customers' funds to trade forex and cryptocurrency."

When the CFTC started their take over process, "secretly asking" Coinpayments to block the portfolio for them before they even went to court, nor got the judicial power to request such actions, or had a judgement entered against the defendant PRIOR to securing a court injunction on May 11, the portfolio was around \$120 million shown to the investors in a weekly business meetings. The CFTC started to act covertly behind the scene impacting the automation of the Application Programming interface (API) of the EminiFX system preventing the accounting staff from approving the investments to be able to CREDIT the members account. That is a loss of \$120MM-90MM=(\$30 millions losses in Cryptocurrency alone, without the loss in the Real Estate Portfolio due to massive wash sales-liquidation.) That would lead to millions of dollars unassigned on the day of the arrest and for two weeks thereafter without any accounting department to confirm the investment and the purchase of the Digital packages. This was significant, not inadvertent and a conscious effort.

This level of recklessness led to the mess the Receiver is pretending to be cleaning. As the Architect of the EminiFX system is now available to counter these assertions and challenge these allegations, the Receiver can no longer indulge in making these assertions without the adversarial litigation process. This debacle would have never happened without the contributory gross negligence of the Receiver and the actions of the CFTC combined. And they knew it since we have learned from the FBI stating on the records in the Criminal proceedings, that their informants were aware for months that EminiFX had a very complex set of portfolios, including a large Real Estate portfolio. It also means that the CFTC should have known and must have known to share that information with their receiver. The Receiver worked with the CFTC before May 12, 2022, the day the court order was unsealed. There is no excuse for a blunder of this magnitude, unless it was serving a purpose to destroy EminiFX and cause a massive loss for the CEO to pay a restitution for the rest of his life.

EminiFx had only NINE months in existence: ramping up operations, building infrastructure and creating processes as part of a massive undertaking. The Sr. Executives of EminiFX spearheaded a significant number of applied strategic leadership initiatives with memorandum of understanding in

place with industry leaders to deploy security procedures and countermeasures to detect and report suspicious activities (SAR) to the proper authorities. For 24 months since taking over the EminiFX system and operations, the Receiver has been repeating that he did "not" find any taxes paid at all. Interestingly, this was a young corporation in its infancy, nine (9) months. However, ALL state and federal quarterly taxes were reported, filed and paid timely every single quarter for the 9 months in existence as reflected by the records for Corporate payroll taxes, Employee payroll taxes, Retirement benefits, Unemployment insurances, Health Benefits being deployed, etc.. 24 months later, it is worrisome that the Receiver takes comfort in stating he did not yet pay the taxes instead of doing the very first task he inherited to "pay the taxes" for the corporation. Instead, he keeps on repeating misleading statements and printing assertions that the young corporation was a lawless space that he was tasked to fix and that's simply not true. Although he hired one of the well-known best-in-class in the industry, and many firms to handle the taxes and "accounting" after two years, there is no GAAP income statement proffered as the result of an X-RAY of the status of what was the health of EMINIFX at the time of the take over.

REVENUES

What happened to the Revenues?

1-Did EminiFX ever make a penny?

2-Where are the revenues streams of EminiFX?

3-What are they and how did the revenue streams factor into the spending and operations of EminiFX?

This is a clear indication that we need GAAP Income Statements, real numbers for revenues streams and resulting profits or losses. After 24 months of "illustrative" numbers even used in the setting of the restitution payment amount for Mr. Alexandre, this instant action has crossed over into the real numbers zone. Talking about corporate taxes that was NOT overdue at the time of the take over, is misleading and that omission is done purportedly to spoil the jury pool and taint the investors minds trying to hurt the company's reputation and Mr. Alexandre's stature and image.

How convenient that, 27 months after the take over, the nine(9) months old company's corporate taxes are still not paid because the ex-CEO, Mr. Alexandre, did not pay the taxes. That sounds like a true campaign slogan and surreal to Mr. Alexandre. It is time to show the real numbers and all the profits and losses of the young corporation for history to witness, no matter how ugly or beautiful the numbers may be. This must be the standard by which the operations of EminiFX are measured moving forward. Real numbers don't lie, people do.

After building an aggressive diversified portfolio, the founder and ex-CEO of EminiFX took great care into building a modern Digital Assets platform harnessing the power of Finance and Technology (FINTECH) to allow the disenfranchised and little investors to take advantage of a growing market of digital assets by investing in a "digital package" powered by a mixture of sound placements and the leverage of extremely volatile financial instruments in the Cryptocurrency industry and the tangible assets to the like of REAL PROPERTIES at all levels of Real Estate Investments. That story must be reflected into the Receiver's Status Reports of the Receivership costings the innovator, and the EminiFX investors hundreds of million of dollars of losses for years to come.

First and foremost, the Receiver destroyed the Real Estate Portfolio, then he proceeded to destroy the Crypto Currency Investment Portfolio. Thereafter, he transferred what was left over from the CFTC-led debacle from the Interactivebrokers' trading account.

The Receiver also went to the Media to create buzz and to spoil the jury pool, knowingly and willfully, in violations of the media publicity Rules by giving interview making biased statements without the required caveats and presumption of innocence for unchallenged statements without due process, and started advertising on his new receivership website and in his filings that he found no records. First NO records, then "poor records", then all the numbers are FAKE progressively putting in the mind of the public and the media that he found nothing and what he found was fake numbers. The Receiver's report continues to be disputed in several respects by Mr. Alexandre, during a period in which he filed for the complete dismissal of this instant civil action, and expressly subject to change by the same

Receiver based on additional withheld information.

On July 2022, a news article regarding the Status Report attributed a quote to the Receiver from an "interview." After the Receiver confirmed that he spoke to the author of the article, counsel pointed out that the quote is NOT accompanied by some of important caveats set forth in the Status Report and could therefore taint the jury pool and prejudice Mr. Alexandre by, for example, biasing potential witnesses. And it did in the Criminal proceeding. Mr. Alexandre reserved the right to seek relief from the Court should similar issues arise in the future impacting fundamental fairness and his ability to present defenses in these and related proceedings.

In December 2023, and first quarter of 2024, the Receiver repeated the same behavior by actively sponsoring a media campaign in the form of "short informational spots", Pg. 17 Dkt.303 at 3. This time the Receiver completely went off the reserve and sponsored a defamation campaign with a spot promoting slander and libel on Mr. Alexandre with the money taken from the EminiFX Estate and the special Court's approval for over \$50,000 spent on these media runs. Mr. Alexandre provided the court with the content of the texts sponsored by the Receiver, Mr. David Castleman stating in whole and in part that "because he admitted that he stole hundred of million of dollars from the investors, the Judge from the American Court in the District of Manhattan transferred the case to a lawyer, Attorney David Castleman who himself come to tell you, that you who have invested, you have a date limit this February 26, up to 5:00pm in the afternoon to fill out a claim form on the internet so you may find a compensation from the money you invested." Added to the spot is a picture of Mr. David Castleman with a banner promoting these lies. Hence, the egregious behavior went from basic progressive intoxication of poor records to now a straight lie about Mr. Alexandre, tainting the Jury pool in this venue. There is no telling that Mr. Alexandre does not expect to find a fair trial in this venue. The Receiver had a free reign to go around and make unverified statements tainting the jury pool using the media.

Now, with the Ninth edition of the status report, and million of dollars spent on billing and fees, there is NOT a single Generally Acceptable Accounting Principles (GAAP) report compliant to the CFTC mandated regulations according to the Statutes that govern how the CFTC-led enforcement civil action must proceed to charge a citizen of the State with a federal violation with data proofs and

upholding the Due Process Clause.

The Receiver's reports continue to provide data that are "not" conformed to GAAP after 24 months of Receivership operations, and having access to significant resources available to produce reports that are audited and/or conformed to the accounting standards in the United States of America. The Receiver has been complaining he did NOT find any data for 24 months while eating millions and show nothing for it. He did not find data, yet in the same breath, as shown below he found significant reliable data to validate 99.8%* of Cryptocurrency withdrawals... This is a false statements to say he found poor data to justify his spending spree wasting millions of dollars in investors funds for Mr. Alexandre to REPAY as restitution with the abuse of filing his actions under "seal." Mr. Alexandre reserves the rights to challenge this abhorrent behavior in the Court of Appeal in due time. What we are provided with is a collection of beautiful documents put together for "illustration purposes" without regards to the Accounting Standards that this court should have demanded that they follow, by respect for the Court, and for the investors and the defendants in this instant action. This analysis of the Status report inferences and the exhibits-table will present a clear picture where we are heading with this Receiver.

The CFTC, as a federal agency, "must adhere to the Federal standards including but not limited to Code of Federal Regulations (C.F.R.) 17 section 5.1, et seq. & 5.1(g) more specifically, that stipulate in clear and unequivocal way the manner in which, and the standards for the CFTC enforcement action financial reports (GAAP report). Hence, the Receiver the CFTC hired for this civil enforcement action, and requested for the Court to keep in place, must also keep in mind that a report that is not conformed to these standards (GAAP) falls short for that type of enforcement action and proceedings by the CFTC, and fails from satisfying the mandate from Congress when publishing Statutes and Regulations to keep the Federal Agencies honest and maintain the public trust.

Mr. Alexandre has been patiently waiting for 24 months for WHEN a standard GAAP report would be finally produced by this Receiver, when we know how many hundred millions of dollars are at stake in this matter and how many millions are already spent by the Receiver's group of professionals, herein referenced as "the professionals" unable to even produce ONE (1) single GAAP report report in support of this instant

civil action. Mr. Alexandre raised those concerns to his previous legal team, he learned that the report was partial, and that more would come at a later time. Obviously, with the change of counsel on record, this will no longer go unchallenged. The wait is over. There is absolutely no excuse whatsoever as to the reason why the Receiver is obstinate in producing subpar "illustrative" accounting reports or "creative" financial reports, inter alia, "illustrative status reports" as submitted for evidence to the Government in Criminal procedure, and now to the Court in this civil action. When will we crossover from the illustration phase to the REAL GAAP accounting reports? As of right now, Mr. Alexandre is not in prison for illustration purposes, and his restitution is not an illustration, the same goes for the millions in fees requested by "the professionals" not for illustration purposes. We are dealing with real data, with unlimited consequences beyond the realm of --illustration.-- It is now time to see a real GAAP report.

It's worth nothing that this report already got the blessings of the CFTC, in contrast to the CFTC's own set of binding Federal Regulations requirements, not even one GAAP accounting report was provided to the Defendant to show cause for the violations raised against them. Why is that?

This is by no means a judgement on the mindset of the Receiver himself but an opposition to the method used to support "A" CFTC's enforcement action in an effort to bypass Congress' mandate to the CFTC to provide a GAAP report to the Defendant when regulating interstate commerce for all financial instruments that would normally fall under the purview of the CFTC. [Although EminiFX was never a commodity pool operator but a Digital Asset company selling digital packages.]

Because this suit is a CFTC-led action, the professionals must all abide by these standards as they are reflected in the Complaint as framework for the violations allegations of CFR 17, 5.1 against the defendants herein. The exact allegations that the CFTC is using against the defendants require a GAAP report and not an "illustrative" or "creative" nor a "decorative" accounting report printed in full color, carefully crafted to make an impression. We know, from the millions of dollars charged to the EminiFX estate as expenses for managing the EminiFX Estate to date, that the Receiver has the financial means and secured the court's approval to hire over 60 professionals 'required' to get the job done the right way. The fact that the end result is subpar is raising eyebrows and can only be part of a grand scheme to persist in the production of creative accounting reports versus standardized GAAP reports for all parties to see. From the standpoint of a court submission this is unacceptable at

this stage and the stakes are too high to allow continuance without demanding accountability for such egregious conduct.

There are other fundamental aspects of the reports concerning defects and omissions that need reconsideration that are covered below in the second part of that motion because Mr. Alexandre and the investors deserve clarity.

POINT OF CLARIFICATION

In "page 5 of 7" Dkt. 303 of the Application under the section "Administration of the Estate and Case", the Receiver stated and I quote: "The Receiver also coordinated with counsel for the CFTC and Mr. Alexandre regarding potential next steps and resolution of the enforcement action(3)". Mr. Alexandre did not speak to the Receiver about the resolution of the enforcement action. Although an agent for the CFTC and the Court in this proceeding, he is "also" a party co-defendant representing "EminiFX", whereas the CFTC is the party to deal with concerning the resolution of the enforcement action.

REPORT ANALYSIS AND FEEDBACK

Page "3 of 27" Dkt. 303, during the early stages of the Receivership, the Receiver dedicated significant resources and time to destroying anything he could find so he can come back later and say that he needs millions to rebuild the data and conduct verification. Hence, the EminiFX System was destroyed and the Databased confiscated. Mr. Alexandre, the Architect of the EminiFX system and Sr. Engineer who deployed it, cannot speak to the state of the EminiFX System and the EminiFX Database as proffered by the Receiver. The Receiver also provided a copy of a subset of the Coinpayments to Mr. Alexandre via his counsel of records after a formal request through the discovery process in the pre-trial phase. The Receiver also provided a copy of the Coinpayments complete and detailed records of all deposits and withdrawals made to and from Coinpayments, EminiFX Official investment account, created under EminiFX, Inc., AND kept (maintained) in the open with the bulk of the Digital Assets portfolios.

Coinpayments records (The Main Cryptocurrency investment portfolio) were the exact replicas of what a person, an auditor, an employee, or a contractor would find in the EminiFX System when cross-referencing EminiFX investments digital packages purchases. And there is a significant reason for that to be true and validated by the Receiver's report. It was AUTOMATED via an Application Programming Interface (API) to create and record transactions in both systems (The Crypto Exchange and The EminiFX Management System) with minimal human interactions (assisted). Thus the keyword of "assisted" in the EminiFX official documentation.

The large TEXT file of the ENTIRE EminiFX historical transactions of any purchases and withdrawals as provided by the Crypto exchange herein referenced as "Crypto 4" and identified as Coinpayments, was sectioned in two parties. "Incoming payments" for digital assets purchases, and EminiFX customers "withdrawals or payments" for the "entire" lifespan of that official corporate cryptocurrency investment account. NOTHING was missing from that file. Had the Receiver not destroy the EminiFX system, any entry-level junior staff member in the accounting department could pull more complex reports from the EminiFX System with the exact cross reference from the exchange directly, inter alia, with Coinpayments if the CFTC made such requests in a fair and just world. However, they did not. They wanted to come in and spend million of dollars unnecessarily, since it will not be their funds but the investors funds, under the disguise they found "poor records", a code-word for waste without oversight. For that to work out, they had to destroy all and everything, then turned around and claimed not to find anything useful or value. Mr. Alexandre would like to take a look with you into the records and verify or debunk that claim.

In that context, Judge, Mr. Alexandre searched and could not find another case in the SDNY where about one thousand (1,000) investors filed a legal response, based upon the request of the CFTC-Court Appointed Receiver to provide directions on how to protect their funds, and for that same Receiver to go against their interests and waste their investments ignoring their contributions to the process to protect their hard earned money entrusted to his care. This was a sham process. There is no other way to categorize it. At the end of the day, the investors are the one damaged and hurt forever.

It appears that the "voice of the little people" the voice of small investors, minorities, etc. does not count. The level of blatant disregard for our input and the persistence in destroying the company and the assets of the EminiFX investors make this Receiver unfit for duty. And yet, after such a debacle he has the courage to print statements that he protected the investment that he destroyed? No Judge, this is a disaster and the Receiver has to "own" it.

When you take over a portfolio of Bitcoin (BTC) with \$107 million dollars in USD equivalent at that time, on the Morning of May 12, 2022, and liquidated the entire investment against better judgement, just because you can, around the same time gigantic firm to the like Blackrock were pushing for massive adoption of BTC Exchange Traded Funds (ETFs), you are basically clueless about the product you are being tasked to manage. The level of inexperience of the Receiver and lack of knowledge about the cryptocurrency world led to the catastrophic disaster of epic proportion that will go down in history as unmatched. No amount of media-campaign can repair that massive destruction and damage. He must own that loss, acknowledge it and held liable for his contributory negligence role at the realm of EminiFX. The Defendant is proud of all his decisions and liable for all the errors as CEO of EminiFX and so must be the Receiver during his tenure acting as the Trustee while the company is under Receivership. The Defendant and the members and investors of EminiFX are asking for accountability.

Today, the BTC is climbing back exactly where the Defendant and the EminiFX members knew it would be based on our experience with the BTC world and projections. What have we lost? Let's revisit the 9th Edition of the Status report of the Receiver. The account contained the USD equivalent of over \$107 million in Cryptocurrency as of May 12, 2022, i.e., two days after the CFTC elected to obtain an ex-parte statutory restraining order (SRO) without notifying the Company, EminiFX and Mr. Alexandre of any violations of any CFTC regulations, that resulted in the freezing of ALL assets of the company and other related and unrelated assets of all EminiFX members and investors, even employees.

We also have proofs that the CFTC without a court order contacted the Cryptocurrency broker, the main Crypto exchange Coinpayments, earlier than that to freeze the main account without any legal authority and jurisdiction. Dkt. 71 at 16. As of July 20, 2022 after leaving the main Crypto unattended

TRULINCS 00712510 - ALEXANDRE, EDDY - Unit: ALF-G-B

the Receiver received what he estimated to be \$86 million dollars in BTC of USD equivalency for a lost of about \$21 million dollars in USD equivalency. (See id. at 3, 31). Fast forward to after the Receiver ignored the members and investors interventions he himself requested, the DAMP protocol was approved and granted by the Judge Caproni over the objections of the 'vast majority' which was the PLURALITY of the members intervening. Dkt. 181.

On July 28, 2023, the Receiver reported that the Bitcoin (BTC) Sales resulted in net proceeds for the Estate of more than \$90 million dollars, down from the \$107 million in USD equivalent of Cryptocurrency. That action "sealed" the fate of the Digital Assets holdings of EminiFX converting into a permanent LOSS forever unrecoverable, because it is no longer an investment in the BTC and now the BTC is hedging around \$70k-\$100k in price. The value of the Digital asset portfolio would have been around \$750 million-\$1 billion dollars in USD equivalency. Who is liable for this massive loss? Mr. Alexandre seems to be the only one left holding that massive CFTC-Receiver-man-made loss with a restitution of around \$213 million for the rest of his natural life; whereas the EminiFX investors have forever lost the vehicle they trusted. Someone must be held liable for this mess.

As if this is not bad enough, the CFTC who hired the Receiver before May 11, 2022 and submitted him for court appointment to Judge Caproni to watch over the EminiFX assets, is requesting to be paid \$18 million dollars in fines by the same Receiver. At the end of the day the members are the only losers while everyone else is getting richer on their backs. The investors must get paid.

[LEFT EMPTY]

The Supreme Court agreed and affirmed these rights and their critical significance in the pursuit of justice, identifying a two prongs standards to be met to ensure due process is satisfied in conformity with the Due Process Clause. (1) Due process requires a general matter opportunity to be heard at meaningful time and in a meaningful manner. (2) Citizens must be afforded due process BEFORE deprivation of life, life, liberty and/or property. See Nat. Council of Resistance to Iran v. Dept. Of State, 251 F3d 192 (D.C. Cir. 2001), Matthews v. Eldridge, 424 US 319, 333, 47 LEd2d 18, 96 S.Ct. 892 (1976), and Armstrong v. Monzo, 380 US 545, 552, 14 LEd2d 62, 85 S.Ct. 1187 (1965).

WHEREFORE, Mr. Alexandre respectfully submits this motion in opposition to the Second Quarter 2024 or the Ninth Status report and further requests an ORDER to vacate the order granting the application for payment as submitted and reissue an appropriate order rejecting the 9th Status report and to DENY the Application for payment after reviewing the arguments and analysis of this submission and the related Memorandum of Points and Authorities attached. Once again, Mr. Alexandre requests the court to compel the Receiver to provide GAAP financial reports with unsealed invoices as mandated by regulations in lieu of "illustrative reports."

Respectfully submitted,

Dated: 9/30/2024

/S/ Eddy Alexandre

Eddy Alexandre, pro se
Reg. No. 00712-510
ex-CEO, founder of EminiFX
FCC Allenwood-Low
P.O. Box 1000
White Deer, PA 17887

enclosure

Application DENIED. The Court has reviewed the Receiver's work product and found that it adequately reports the status of the Receiver's operations. The fee request was reasonable in light of the complex nature of the work performed.

The Court once again notes that Mr. Alexandre, having pled guilty in the criminal case to defrauding investors, cannot now position himself as the guardian of their best interests. *See* Dkt. 353. The Court need not consider Mr. Alexandre's preferences when assessing the Receiver's work.

Given the lack of legal authority for Mr. Alexandre's motion, the Court hereby certifies pursuant to 28 U.S.C. § 1915(a)(3) that any interlocutory appeal of this order would not be taken in good faith. Therefore, permission to proceed *in forma pauperis* on interlocutory appeal of this order is DENIED.

SO ORDERED.

A handwritten signature in blue ink, appearing to read "Valerie Caproni", is written over the printed name.

10/21/2024

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE